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# **PRELIMINARY DRAFT**

## **No. 3434**

**PREPARED BY**  
**LEGISLATIVE SERVICES AGENCY**  
**2012 GENERAL ASSEMBLY**

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### **DIGEST**

**Citations Affected:** IC 11-8-7-2; IC 11-13-3-3; IC 35-38-1-31.

**Synopsis:** Victim rights. Requires the department of correction (department) to: (1) establish an automated victim notification system; and (2) notify a registered crime victim of certain changes affecting the committed offender who committed the crime against the victim. Specifies when the department shall make certain victim notifications. Provides that if a court imposes a felony sentence that involves a commitment to the department, the court shall state in the sentencing order and abstract of judgment certain information.

**Effective:** July 1, 2012.



A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 11-8-7-2, AS ADDED BY P.L.64-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The department ~~may~~ **shall** establish an automated victim notification system that must do the following:

(1) Automatically notify a registered crime victim when a committed offender who committed the crime against the victim:

(A) is assigned to a:

(i) department facility; or

(ii) county jail or any other facility not operated by the department;

(B) is transferred to a:

(i) department facility; or

(ii) county jail or any other facility not operated by the department;

(C) is given a different security classification;

(D) is released on temporary leave;

(E) is discharged; ~~or~~

(F) has escaped;

**(G) has a change in the committed offender's expected date of release from incarceration;**

**(H) is scheduled to have a parole release hearing;**

**(I) has requested clemency or pardon consideration;**

**(J) is to be placed in a minimum security:**

**(i) facility; or**

**(ii) work release program;**

**or is permitted to participate in another minimum security assignment; or**

**(K) dies during the committed offender's period of incarceration.**

(2) Allow a registered crime victim to receive the most recent status report for an offender by calling the automated victim



notification system on a toll free telephone number.

(3) Allow a crime victim to register or update the victim's registration for the automated victim notification system by calling a toll free telephone number.

(b) For purposes of subsection (a), ~~if the department establishes an automated victim notification system~~, a sheriff responsible for the operation of a county jail shall immediately notify the department if a committed offender:

- (1) is transferred to another county jail or another facility not operated by the department of correction;
- (2) is released on temporary leave;
- (3) is discharged; or
- (4) has escaped.

Sheriffs and other law enforcement officers and prosecuting attorneys shall cooperate with the department in establishing and maintaining an automated victim notification system.

(c) An automated victim notification system may transmit information to a person by:

- (1) telephone;
- (2) electronic mail; or
- (3) another method as determined by the department.

**(d) The department shall provide the opportunity for a registered crime victim to receive periodic status reports concerning the committed offender who committed the crime against the registered crime victim, including reports stating:**

- (1) the committed offender's projected date of release from imprisonment;**
- (2) the facility where the committed offender is imprisoned;**
- and**
- (3) the current security classification of the committed offender.**

**(e) A registered crime victim may choose to receive a status report described in subsection (d):**

- (1) annually;**
- (2) quarterly;**
- (3) monthly; or**
- (4) when triggered by an event described in subsection (a)(1).**

SECTION 2. IC 11-13-3-3, AS AMENDED BY P.L.105-2010, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) A person sentenced under IC 35-50 shall be released on parole or discharged from the person's term of imprisonment under IC 35-50 without a parole release hearing.

(b) A person sentenced for an offense under laws other than IC 35-50 who is eligible for release on parole, or a person whose parole is revoked and is eligible for reinstatement on parole under rules adopted by the parole board shall, before the date of the person's parole



eligibility, be granted a parole release hearing to determine whether parole will be granted or denied. The hearing shall be conducted by one (1) or more of the parole board members. If one (1) or more of the members conduct the hearing on behalf of the parole board, the final decision shall be rendered by the full parole board based upon the record of the proceeding and the hearing conductor's findings. Before the hearing, the parole board shall order an investigation to include the collection and consideration of:

- (1) reports regarding the person's medical, psychological, educational, vocational, employment, economic, and social condition and history;
- (2) official reports of the person's history of criminality;
- (3) reports of earlier parole or probation experiences;
- (4) reports concerning the person's present commitment that are relevant to the parole release determination;
- (5) any relevant information submitted by or on behalf of the person being considered; and
- (6) such other relevant information concerning the person as may be reasonably available.

(c) Unless the victim has requested in writing not to be notified, the department shall notify a victim of a felony (or the next of kin of the victim if the felony resulted in the death of the victim) or any witness involved in the prosecution of an offender imprisoned for the commission of a felony when the offender is:

- (1) to be discharged from imprisonment;
- (2) to be released on parole under IC 35-50-6-1;
- (3) to have a parole release hearing under this chapter;
- (4) to have a parole violation hearing;
- (5) an escaped committed offender; or
- (6) to be released from departmental custody under any temporary release program administered by the department, including the following:

(A) Placement on minimum security assignment to a program authorized by IC 11-10-1-3 or IC 35-38-3-6 and requiring periodic reporting to a designated official, including a regulated community assignment program.

(B) Assignment to a minimum security work release program.

(d) The department shall make the notification required under subsection (c):

- (1) not later than twenty-four (24) hours after the escape of a committed offender;**
- (+ (2) at least forty (40) days before: a**
  - (A) the discharge or release of a committed offender; or**
  - (B) the date of a hearing occurs; concerning a committed offender's possible discharge or release; and**
- (- (3) if the date of a committed offender's discharge or**



**release as referred to in subdivision (2)(A) is changed during the forty (40) day notification period referred to in subdivision (2), not later more than ~~twenty-four (24)~~ hours after the escape of a committed offender: ~~forty-eight (48)~~ hours after the change in the discharge or release date.**

The department shall supply the information to a victim (or a next of kin of a victim in the appropriate case) and a witness at the address supplied to the department by the victim (or next of kin) or witness. A victim (or next of kin) is responsible for supplying the department with any change of address or telephone number of the victim (or next of kin).

(e) The probation officer conducting the presentence investigation shall inform the victim and witness described in subsection (c), at the time of the interview with the victim or witness, of the right of the victim or witness to receive notification from the department under subsection (c). The probation department for the sentencing court shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department of correction. The probation department shall supply the department with the information required by this section as soon as possible but not later than five (5) days from the receipt of the information from the victim. A victim (or next of kin) is responsible for supplying the department with the correct address and telephone number of the victim (or next of kin).

(f) Notwithstanding IC 11-8-5-2 and IC 4-1-6, an inmate may not have access to the name and address of a victim and a witness. Upon the filing of a motion by any person requesting or objecting to the release of victim information, witness information, or both that is retained by the department, the court shall review the information that is the subject of the motion in camera before ruling on the motion.

(g) The notice required under subsection (c) must specify whether the prisoner is being discharged, is being released on parole, is being released on lifetime parole, is having a parole release hearing, is having a parole violation hearing, or has escaped. The notice must contain the following information:

- (1) The name of the prisoner.
- (2) The date of the offense.
- (3) The date of the conviction.
- (4) The felony of which the prisoner was convicted.
- (5) The sentence imposed.
- (6) The amount of time served.
- (7) The date and location of the interview (if applicable).

(h) The parole board shall adopt rules under IC 4-22-2 and make available to offenders the criteria considered in making parole release determinations. The criteria must include the:

- (1) nature and circumstances of the crime for which the offender is committed;



- (2) offender's prior criminal record;
- (3) offender's conduct and attitude during the commitment; and
- (4) offender's parole plan.

(i) The hearing prescribed by this section may be conducted in an informal manner without regard to rules of evidence. In connection with the hearing, however:

- (1) reasonable, advance written notice, including the date, time, and place of the hearing shall be provided to the person being considered;
- (2) the person being considered shall be given access, in accord with IC 11-8-5, to records and reports considered by the parole board in making its parole release decision;
- (3) the person being considered may appear, speak in the person's own behalf, and present documentary evidence;
- (4) irrelevant, immaterial, or unduly repetitious evidence shall be excluded; and
- (5) a record of the proceeding, to include the results of the parole board's investigation, notice of the hearing, and evidence adduced at the hearing, shall be made and preserved.

(j) If parole is denied, the parole board shall give the person written notice of the denial and the reasons for the denial. The parole board may not parole a person if it determines that there is substantial reason to believe that the person:

- (1) will engage in further specified criminal activity; or
- (2) will not conform to appropriate specified conditions of parole.

(k) If parole is denied, the parole board shall conduct another parole release hearing not earlier than five (5) years after the date of the hearing at which parole was denied. However, the board may conduct a hearing earlier than five (5) years after denial of parole if the board:

- (1) finds that special circumstances exist for the holding of a hearing; and
- (2) gives reasonable notice to the person being considered for parole.

(l) The parole board may parole a person who is outside Indiana on a record made by the appropriate authorities of the jurisdiction in which that person is imprisoned.

(m) If the board is considering the release on parole of an offender who is serving a sentence of life in prison, a determinate term of imprisonment of at least ten (10) years, or an indeterminate term of imprisonment with a minimum term of at least ten (10) years, in addition to the investigation required under subsection (b), except as provided in subsection (n), the board may order and consider a community investigation, which may include an investigation and report that substantially reflects the attitudes and opinions of:

- (1) the community in which the crime committed by the offender occurred;



(2) law enforcement officers who have jurisdiction in the community in which the crime occurred;

(3) the victim of the crime committed by the offender, or if the victim is deceased or incompetent for any reason, the victim's relatives or friends; and

(4) friends or relatives of the offender.

If the board reconsiders for release on parole an offender who was previously released on parole and whose parole was revoked under section 10 of this chapter, the board may use a community investigation prepared for an earlier parole hearing to comply with this subsection. However, the board shall accept and consider any supplements or amendments to any previous statements from the victim or the victim's relatives or friends.

(n) The board shall conduct the community investigation described in subsection (m) if:

(1) the person was convicted of a crime of violence (as defined in IC 35-50-1-2); or

(2) the person is a sex offender (as defined in IC 11-8-8-4.5).

(o) As used in this section, "victim" means a person who has suffered direct harm as a result of a violent crime (as defined in IC 5-2-6.1-8).

SECTION 3. IC 35-38-1-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 31. If a court imposes on a person convicted of a felony a sentence that involves a commitment to the department of correction, the court shall state in the sentencing order and the abstract of judgment:**

**(1) the minimum and maximum amount of time a person could be incarcerated considering:**

**(A) the application of credit time under IC 35-50-6;**

**(B) the possibility of supervision after incarceration; and**

**(C) credit for time the person has already served in jail;**

**(2) each offense the person is convicted of;**

**(3) the sentence, including whether the sentence includes a suspended sentence, probation, or direct commitment to community corrections; and**

**(4) if probation, parole, or a community corrections placement has been revoked, the reasons for the revocation.**

